

UNITED STATES DISTRICT COURT
for the

District of South Carolina

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of the defendant the Director of the Bureau of Prisons the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is **DENIED** (Doc.# 123). The defendant's sentence was governed in large part by the statutory mandatory minimum sentence of 60 months imprisonment for his conviction on Count 1. Although the top of defendant's guideline range for Count 1 slightly exceeded the mandatory minimum, the court departed downward pursuant to U.S.S.G. § 5K1.1 from the 60-month mandatory minimum sentence, and arrived at a new sentence of 48 months for Count 1. Amendment 750 does not apply to this situation because it does not have the effect of lowering the defendant's guideline range, due to the application of the mandatory minimum sentence on Count 1 from which the court departed.

IT IS SO ORDERED.

Order Date: July 2, 2012

s/ Terry L. Wooten
Judge's signature

Effective Date:
(if different from above)

Terry L. Wooten, United States District Judge